

CHAPTER 63

MILITARY CODE AND MILITARY JUSTICE — APPLICABILITY, JURISDICTION, STATUTE OF LIMITATIONS

S.F. 373

AN ACT relating to service in the national guard and reserve components of the armed forces, including applicability of reemployment protections, and military justice jurisdiction and statutes of limitation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 29A.43, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The protections provided for in this section shall apply with equal force to members of the national guard of another state, an organized reserve unit in another state, or a civil air patrol unit in another state who are employed in this state.

Sec. 2. Section 29B.1, Code 2017, is amended to read as follows:

29B.1 Persons subject to code.

1. This chapter applies to all members of the state military forces performing national guard duty or state active duty, while not on federal active duty. In addition, this chapter applies to all members of the state military forces who commit an offense during travel to or from the member's duty location or during intervals between consecutive periods of duty on the same day or on consecutive days in which the victim of the offense is another member of the state military forces.

2. As used in this chapter, unless the context otherwise requires, “state military forces” has the same meaning as in section 29A.6, and “code” means this chapter, which may be cited as the “Iowa Code of Military Justice”.

Sec. 3. Section 29B.2, Code 2017, is amended to read as follows:

29B.2 Jurisdiction to try personnel.

1. Each person discharged from the state military forces who is later charged with having fraudulently obtained a discharge is, subject to section 29B.44, subject to trial by court-martial on that charge and is after apprehension subject to this code while in the custody of the military for that trial. Upon conviction of that charge the person is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

2. No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

3. ~~A member of the state military forces person~~ who is charged with having committed an offense against this code may be called or ordered to duty for the purpose of investigation under section 29B.33, trial by court-martial, and or nonjudicial punishment under section 29B.14. ~~A member shall be called or ordered to duty within one hundred eighty days of the discovery of the charged offense, and in no event shall a member be called or ordered to duty after the expiration of three years from the termination of a period of duty.~~

4. A member of the state military forces who is subject to this code at the time of commission of an offense made punishable by this code is not relieved from amenability to the jurisdiction of this code by virtue of the termination of a period of duty.

Sec. 4. Section 29B.44, Code 2017, is amended to read as follows:

29B.44 Statute of limitations.

1. A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny, may be tried and punished at any time without limitation.

2. Except as otherwise provided in this section, a person charged with desertion in time of peace or with ~~the any other offense punishable under section 29B.112~~ under this code is not liable to be tried by court-martial if the offense was committed more than ~~three~~ five

years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

3. Except as otherwise provided in [this section](#), a person charged with any offense under [this code](#) is not liable to be ~~tried by court-martial or~~ punished under [section 29B.14](#) if the offense was committed more than two years before the ~~receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the~~ imposition of punishment under [section 29B.14](#).

4. Periods in which the accused was absent from territory in which the state has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in [this section](#).

5. If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations has expired or will expire within one hundred eighty days after the date the charges or specifications are dismissed, trial by court-martial or punishment under [section 29B.14](#) is not barred by the statute of limitations if the following conditions are met:

a. The charges and specifications are received by an officer exercising summary court-martial jurisdiction or having the authority to conduct punishment under [section 29B.14](#) within one hundred eighty days after the charges or specifications are dismissed.

b. The charges and specifications allege some or all of the same acts or omissions that were alleged in the dismissed charges or specifications.

Approved April 13, 2017